

REMARKS

The Examiner rejected claim 1-3, 6, 8, 9, 13, 16, 20, and 24, while withdrawing claims 7, 10-12, 14, 15, 26, 27, 31, and 32 from consideration. Claims 8, 9, 26, 27, 31, and 32 have been canceled herein without prejudice. Thus, claims 1-3, 6, 7, 10-16, 20, and 24 are pending.

In light of the following remarks, Applicants respectfully request reconsideration and allowance of claims 1-3, 6, 13, 16, 20, and 24. Applicants also respectfully request examination and allowance of claims 7, 10-12, 14, and 15.

Objection to the Specification

The Examiner objected to the substitute specification filed on August 2, 2006, as lacking a statement that it does not add disclosure beyond the originally filed specification. The Examiner also objected to handwritten and non-initialed editorial marks in the marked-up copy of the specification filed on August 2, 2006.

A Statement of Substitute Specification pursuant to 37 C.F.R. § 1.125 is filed herewith. In addition, a clean copy of the substitute specification lacking such handwritten and non-initialed editorial marks is filed herewith. No new matter is introduced by the substitution specification, and Applicants respectfully request its entry.

Objection to the Oath or Declaration

The Examiner objected to the oath filed pursuant to 37 C.F.R. § 1.67(a) for having the incorrect filing date. Applicants assert that the Declaration submitted on December 4, 2006, is accurate and without defects. Pursuant to 37 C.F.R. § 1.497 (Oath or declaration under 35 U.S.C. § 371(c)(4)), Applicants have met all of the following requirements for the Declaration:

- (1) is executed in accordance with either §§ 1.66 or 1.68;
- (2) identifies the specification to which it is directed;
- (3) identifies each inventor and the country of citizenship of each inventor; and

(4) states that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

The information available to the inventors was accurate upon the time of filing the Declaration as the patent application was submitted to the Patent Office on August 2, 2006. The Declaration properly identified the specification to which it was directed. Since the § 371 fulfillment date is not assigned until after the Declaration is submitted, it is not possible to list the § 371 fulfillment date on a Declaration. Accordingly, Applicants respectfully request withdrawal of the objection to the Declaration.

Rejection Under 35 U.S.C. § 103

The Examiner rejected claims 1-3, 6, 8, 9, 16, 20, and 24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Schirmbeck *et al.* reference (*J. Immunol.*, 171:5198-5207 (2003)) in view of the Vives *et al.* reference (*J. Biol. Chem.*, 272(25):1610-1617 (1997)).

Applicants respectfully disagree. In addition, Applicants respectfully request withdrawal of the rejections under 35 U.S.C § 103 since, as demonstrated by the attached Declarations under 37 C.F.R. § 1.131, Applicants invented the presently claimed subject matter prior to publication of the Schirmbeck *et al.* reference. As set forth in MPEP § 715, swearing behind a cited reference effectively removes the rejection.

In light of the above, Applicants respectfully request withdrawal of the rejections of claims 1-3, 6, 16, 20, and 24 under 35 U.S.C. § 103(a).

Double-Patenting Rejection

The Examiner provisionally rejected claims 1-3, 6, 8, 9, 16, 20, and 24 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-4, 7, 9-11, 13-16, 18-21, 24-26, and 30-33 of co-pending U.S. Patent Application Serial No. 11/513,628, filed August 31, 2006.

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Applicants respectfully request the Examiner allow the present application, which is the earlier filed application, to issue according to MPEP § 804.

CONCLUSION

Applicants submit that claims 1-3, 6, 13, 16, 20, and 24 are in condition for allowance, which action is requested. Applicants also respectfully request examination and allowance of claims 7, 10-12, 14, and 15. The Examiner is invited to call the undersigned agent at the telephone number below if such will advance prosecution of this application.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 07039-0501US1.

Respectfully submitted,

Date: May 6, 2010

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